



FILED

07-18-06

09:45 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Harry Milor Childers, et al.,

Complainants,

vs.

California Water Service Company,

Defendant.

Case 06-05-001
(Filed May 15, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING
SUMMARIZING TELEPHONIC PREHEARING CONFERENCE**

Summary

This assigned Administrative Law Judge's (ALJ) Ruling (Ruling) summarizes a telephonic prehearing conference (PHC) held on June 23, 2006, in Complaint Case 06-05-001. The Ruling provides an opportunity for comments on the Ruling. Any comments must be served by August 4, 2006.

Background

Harry Childers, complainant and customer in California Water Service Company's (CWS) Kern River Valley District, filed a complaint against CWS on February 21, 2006. The complaint alleges, among other issues, that CWS's rates are unfair or inappropriate, and that it is inappropriate to allow CWS to recover replacement costs in depreciation and as capital improvements.

On May 18, 2006, CWS filed an answer to Childers' complaint denying all allegations and providing seven separate defenses in response to the complaint.

On June 23, 2006, a telephonic PHC was held without a court reporter. The PHC began at 10 a.m. and concluded at approximately 11:30 a.m. Participants were Mr. Childers, Lynn McGhee, counsel for CWS and the assigned ALJ.

Discussion

A summary of the matters discussed during the PHC is as follows:

1. Mr. Childers contends that it is unfair to allow CWS to receive both depreciation expense and also a rate of return on capital improvements. The ALJ explained the Commission's regulatory methodology in setting rates on a test year basis including the concept that rate base represents a depreciated value for plant, and that plant is depreciated each year. Accordingly, rates reflect a continuing depreciated value for plant year after year, and are based on original cost only in the first year. Mr. Childers expressed that he believes he now understands this regulatory concept.
2. Mr. Childers expressed that it is unfair to set all rates (residential) the same (ARS). He explained that before CWS purchased his local water system from Dominguez Water Company (DWC), he complained to DWC in 2000 regarding ARS issues. He believed that it was wrong for rates in the Kern River Valley District to be the same as rates in other DWC service areas. He continues to believe that rates should be set according to individual service areas and not on an ARS basis. Ms. McGhee pointed out that this change to ARS occurred a number of years ago before CWS acquired the water system, and that within each service area different events cause changes in expenses. As a result, it is not possible to individually charge each customer or service area according to some allocation of cost methodology. For example, reductions in arsenic levels in Mr. Childers' service area are partially paid for by customers in other service areas.
3. The ALJ explained that the subject of ARS is a matter for the rate design phase in a general rate proceeding, and therefore Mr. Childers should become a party to such a proceeding.

Mr. Childers indicated that he thought that by participating in a public participation hearing he had raised the ARS issue for consideration by the Commission. The ALJ explained that while the Commission reviews and considers public witness statements, such statements often contain allegations and opinions that are not presented as expert testimony and are not subject to cross-examination. Mr. Childers was not aware that he could be a party in a proceeding, or what process would allow him to become a party. Although the ALJ explained how to become a party, clearly such participation is not now possible in the current CWS Application (A) 05-08-010.¹ Mr. Childers expressed that he was not made aware of these differences, although Ms. McGhee and the ALJ explained that such matters are normally included in information provided to customers before a rate case proceeds.

4. Mr. Childers stated that he believes he owns a portion of the water distribution system, and that he paid taxes on this part ownership. This issue is not clear as there is no evidence or other documents in the complaint to verify exactly what portion of the distribution system is impacted. Mr. Childers did express that he believed he paid for a portion of the distribution system many years ago. Ms. McGhee noted that in some cases developers receive money as a portion of development costs to establish a water system to serve a new community, and perhaps this is the matter to which Mr. Childers is referring.
5. During the discussion of the complaint, Ms. McGhee offered to send Mr. Childers a copy of the draft decision as a means of explaining some of the matters which are a subject of the complaint.²

¹ Hearings have concluded in A.05-08-010, and a draft decision has been distributed.

² A letter dated June 23, 2006, indicates that Ms. McGhee sent Mr. Childers a copy of the draft decision.

A copy of this Ruling will be sent to parties participating in the June 23, 2006 PHC. Any party wishing to recommend changes or comment on the summary provided in this Ruling may do so.

Comments are due by August 4, 2006. Any comments shall be sent to all parties participating in the June 23, 2006 PHC.

Therefore, **IT IS RULED** that:

1. This ruling summarizes a telephonic prehearing conference held on June 23, 2006.
2. Any comments on this ruling shall be served by August 4, 2006.

Dated July 18, 2006, at San Francisco, California.

/s/ BRUCE DEBERRY
Bruce DeBerry
Administrative Law Judge

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Dated July 18, 2006, at San Francisco, California.

/s/ KE HUANG

Ke Huang

C.06-05-001 BMD/hkr

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C0605001 NOPOST

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